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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,596	10/27/2003	Godfrey J. LeBoeuf JR.	NRL898	1100
7590	12/06/2004		EXAMINER	
DAVID A. LINGBECK P.O. BOX 500 ST. MICHAEL, MN 55376			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/693,596	LEBOEUF, GODFREY J. <i>MJ</i>	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 October 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 10-12-04 and this action is final.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

4,513,478 to Trahan.

Referring to claim 2, Trahan discloses a crab meat extracting apparatus comprising, a planar base – at 12, having a top side – see figure 1, a crab support member – at 14,18, being attached upon the top side of the planar base member – at 12 – see figure 1, a tray – at 38, being removably disposed upon the planar base member – at 12 – see figure 1, and a crab compressing assembly – at 20-36, including a crab compressing plate – at 34,36, being hingedly attached – proximate 16, to the crab support member – at 14,18, and being removably disposed upon the crab support member for compressing a shelled crab between the crab support member and the

crab compressing plate – see for example figures 1-4. Trahan further discloses the crab support member – at 14, is a plate – at 16, having a semi-circular main portion – at the upper portion of 14, and also having planar end portions – proximate 18 and at the bottom of 14 and at the sides of 14, which are fastened upon the top side of the planar base member – at 12 – see for example figures 1-4.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trahan as applied to claim 2 above, and further in view of U.S. Patent No. 3,388,422 to Benoit.

Referring to claim 3, Trahan further discloses a tray – at 38, with a bottom wall and a side wall – see for example figure 1. Trahan does not disclose the tray has a bottom, side and end wall. Benoit does disclose the tray – at 55, has a bottom wall – at the bottom of the base of 55, a side wall – see figure 1 and a end wall – at the upper side of the base portion as seen in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Trahan and add the tray with bottom, side and end walls of Benoit, so as to allow for the tray to completely contain the crabmeat during use.

Referring to claim 4, Trahan as modified by Benoit discloses the crab compressing plate – at 34,36, is longitudinally curved and has an end which is hingedly attached to one of the planar portions of the planar end portions of the crab support member – at 14 – see for example figures 1-4, the crab compressing plate – at 34,36, being disposed generally concentric to the crab support member upon the crab compressing plate being disposed upon the crab support member – see for example figures 1-4 of Trahan where the plate is concentric to the support member where the plate is attached to the support member and when the compressing assembly is moved towards the end of the plate to compress the crab as seen in figure 4.

Referring to claim 5, Trahan as modified by Benoit further discloses the crab compressing assembly includes a bracket – at 22,24, being attached upon the top side of the planar base member – at 12 – see figure 1, and further including a handle assembly – at 26, being pivotally mounted upon the bracket member – proximate 32, and also including a roller member – at 20, being mounted upon the handle assembly and being rollably engaged upon the crab compressing plate – at 34,36 – see for example figures 1-4 of Trahan.

Referring to claim 6, Trahan as modified by Benoit further discloses the bracket member includes an elongate main portion – at 22,24, and also includes end portions – at the ends of 22,24, being angled relative to the elongate main portion and being disposed generally perpendicular to the planar base member – at 12 – see for example figures 1-4 and having holes being disposed therethrough – proximate 28 and 32 – see for example figures 1-4 of Trahan.

Referring to claim 7, Trahan as modified by Benoit further discloses the handle assembly includes a pair of elongate handle support members – at 28, having angled first end portions each of which is pivotally disposed in the hole of a respective end portion of the bracket member – at

22,24, and also including a handle support cross member – at 32, being attached at second ends of and extending between the elongate handle support members – at 28, and also includes a roller support cross member – at 30, being attached intermediate of the first end portions and the second ends of and extending between the elongate handle support members – at 28, and further includes a handle member – at 33, being disposed about the handle support cross member – at 32, the roller member – at 20, being rollably disposed about the roller support cross member – at 30 – see for example figures 1-4 of Trahan.

***Response to Arguments***

4. Regarding claim 2, the Trahan reference discloses a tray – at 38, as seen in figures 1 and 4 and column 2 line 61 where item 38 is described as a cup or container. As seen in Merriam-Webster's Collegiate Dictionary 10<sup>th</sup> edition, the term container is defined as a receptacle for holding goods and the term tray is defined as an open receptacle with a flat bottom and a low rim for holding, carrying or exhibiting articles. Therefore, item – 38 is a tray in that it is described as a container as seen in column 2 line 61, and that it has an open receptacle with a flat bottom and low rim as seen in figures 1 and 4.

Further, applicant states that a plate is a smooth thin flat piece of material and as seen in applicant's disclosure the plate – at 13-16, is not described as being smooth and as seen in figure 1 of applicant's disclosure items – 13-14 are not flat but are rounded and therefore the support member – at 13-16 in applicant's disclosure does not meet applicant's own definition of the term plate. Further, as seen in figures 1 and 4 of Trahan, the portion of the support member – 14

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proximate item – 18, is thin and of semicircular shape and therefore teaches the claimed limitations.

Further, the Trahan reference discloses a longitudinally curved crab compressing plate – at 34,36 as seen in figures 1 and 4, where the plate – at 34,36, is curved at one end to match the curved shape of items – 16,18 and it is further curved when the roller – at 20, moves across the other end of the plate – 34,36, as seen in figure 4. Further, the plate – at 34,36, is hingedly attached to the roller support member – at 14 as seen in figures 1 and 4, where the plate – 34,36, is attached to the support member – 14 at one end and is free at the other end and the free end is allowed to pivot with respect to the fixed end and therefore is hinged to the support member at its fixed end.

Further, the Trahan reference discloses the bracket member – at 22,24, attached to the top of the base member – at 12 – as seen in figures 1 and 4 which shows items 22,24, supporting/bracing the handle – at 26 and attached to the base member – 12 via support member – 14.

### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP  
David Parsley  
Patent Examiner  
Art Unit 3643

  
PETER M. POON  
SUPERVISORY PATENT EXAMINER

11/30/04